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In re Application of	:	
AXTEN et al	:	DECISION ON
Application No.: 10/533,501	:	
PCT No.: PCT/US2003/035206	:	
Int. Filing Date: 04 November 2003	:	PETITION UNDER
Priority Date: 05 November 2002	:	
Attorney Docket No.: P51380	:	
For: ANTIBACTERIAL AGENTS	:	37 CFR 1.181

This decision is in response to applicants' "executed declaration" filed on 02 May 2005 with the correct name of the fourth inventor as Mark Andrew SEEFELD. This is being treated as a petition under 37 CFR 1.181.

BACKGROUND

On 04 November 2003, applicants filed international application No. PCT/US03/35206, which claims a priority date of 05 November 2002.

On 02 May 2005, applicant filed in the United States Patent and Trademark Office (PTO) a Transmittal Letter (Form PTO-1390) accompanied by, *inter alia*, the basic national fee, and an executed declaration.

In the declaration section pertaining to the fourth named inventor, the name Mark Andrew SEEFELD appears; this name did not appear in the international application which is Mark Antony SEEFELD.

DISCUSSION

It is unclear from the submission whether the corrected name is due to a name change or a typographical error since applicant has provided no explanation. Therefore, the declaration of the inventors is not acceptable at this time, in that the name of the named inventor, Mark Andrew SEEFELD, does not correspond to that set forth in the international application, Mark Antony SEEFELD.

MPEP § 605.04(c) requires in instances where an inventor has changed his or her name after the application has been filed to submit a petition under 37 CFR 1.182. The petition must include (1) the appropriate petition fee and (2) an affidavit signed with both names setting forth the procedure whereby the change of name was effected, or a certified copy of the court order.

Applicant must provide items (1) and (2) for consideration. Alternatively, applicants may provide a showing that the name change was effected in accordance with PCT Rule 92Bis prior to the filing of the present national stage application.

Also, in the case where there is no change name of the individual but an incorrect name was given, a petition under 37 CFR 1.182 should be filed requesting correction of applicant's name

If, however, the name change is due to a typographical error then applicant needs to state and explain it by filing a petition under 37 CFR 1.181. If filed under 37 CFR 1.181 the reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.181."

For the reasons above, the application may not enter into national stage processing at this time.

CONCLUSION

The petition under 37 CFR 1.181 is **DISMISSED**, without prejudice.

A proper response to the Notice must be filed within TWO (2) MONTHS from the mail date of this decision. Extensions of time are available under 37 CFR 1.136(a). Failure to timely file the proper response will result in ABANDONMENT.

Any further correspondence with respect to this matter should be addressed to the Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.



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